

ASSEMBLY BILL

No. 1406

**Introduced by Committee on Judiciary (Feuer (Chair), Atkins,
Dickinson, Huber, Huffman, Monning, and Wieckowski)**

March 7, 2011

An act to amend Section 2104 of the Family Code, relating to dissolution of marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1406, as introduced, Committee on Judiciary. Dissolution of marriage: disclosure.

Existing law requires each party to a proceeding for dissolution or nullity of marriage or legal separation of the parties to serve on the other party a preliminary declaration of disclosure of assets, as specified, after or concurrently with service of the petition for dissolution.

This bill instead would require the petitioner to serve the preliminary declaration of disclosure either concurrently with the petition for dissolution or within 60 days of filing the petition, and would require the respondent to serve the other party with the preliminary declaration of disclosure either concurrently with the response to the petition or within 60 days of filing the response. The bill also would require the preliminary declaration of disclosure of assets to include all tax returns filed by the declarant within the 2 years prior to the date that the party served the declaration.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2104 of the Family Code is amended to read:

2104. (a) Except by court order for good cause, as provided in Section 2107, ~~after or concurrently with service of the petition for dissolution or nullity of marriage or legal separation of the parties in the time period set forth in subdivision (f),~~ each party shall serve on the other party a preliminary declaration of disclosure, executed under penalty of perjury on a form prescribed by the Judicial Council. The commission of perjury on the preliminary declaration of disclosure may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Chapter 10 (commencing with Section 2120), in addition to any and all other remedies, civil or criminal, that otherwise are available under law for the commission of perjury. *The preliminary declaration of disclosure shall include all tax returns filed by the declarant within the two years prior to the date that the party served the declaration.*

(b) The preliminary declaration of disclosure shall not be filed with the court, except on court order. However, the parties shall file proof of service of the preliminary declaration of disclosure with the court.

(c) The preliminary declaration of disclosure shall set forth with sufficient particularity, that a person of reasonable and ordinary intelligence can ascertain, all of the following:

(1) The identity of all assets in which the declarant has or may have an interest and all liabilities for which the declarant is or may be liable, regardless of the characterization of the asset or liability as community, quasi-community, or separate.

(2) The declarant's percentage of ownership in each asset and percentage of obligation for each liability where property is not solely owned by one or both of the parties. The preliminary declaration may also set forth the declarant's characterization of each asset or liability.

(d) A declarant may amend his or her preliminary declaration of disclosure without leave of the court. Proof of service of any amendment shall be filed with the court.

(e) Along with the preliminary declaration of disclosure, each party shall provide the other party with a completed income and

1 expense declaration unless an income and expense declaration has
2 already been provided and is current and valid.
3 (f) *The petitioner shall serve the other party with the preliminary*
4 *declaration of disclosure either concurrently with the petition for*
5 *dissolution, or within 60 days of filing the petition. The respondent*
6 *shall serve the other party with the preliminary declaration of*
7 *disclosure either concurrently with the response to the petition,*
8 *or within 60 days of filing the response.*

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